



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Cannabis Regulatory  
Commission Unclassified Titles

CSC Docket Nos. 2021-1467 and  
2021-1468

Title Creation

**ISSUED: MAY 3, 2021 (HS)**

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The Division of Agency Services (Agency Services) requests the establishment of the unclassified titles of Chair, Cannabis Regulatory Commission and Member, Cannabis Regulatory Commission.

As background, the Department of the Treasury submitted a request to Agency Services for the creation of two new titles, Chair, Cannabis Regulatory Commission and Member, Cannabis Regulatory Commission.<sup>1</sup> The Cannabis Regulatory Commission (CRC) consists of five members, one of whom shall be designated by the Governor as the Chair and one of whom shall be designated the Vice-Chair. *N.J.S.A.* 24:6I-24b(1). The members of the CRC are appointed by the Governor as follows: one member is appointed upon recommendation of the Senate President; one member is appointed upon recommendation of the Speaker of the General Assembly; and three members, including the Chair, are appointed without any needed recommendation. *N.J.S.A.* 24:6I-24b(2). The Chair and the other members serve for terms of five years, provided that, for the two other members initially appointed by the Governor without any needed recommendation, one is appointed for a term of four years, and one is appointed for a term of three years. *N.J.S.A.* 24:6I-24b(5). The Chair and the other members serve in their respective capacities throughout their entire term and until their successors shall have been duly appointed and qualified. *Id.* Any vacancy in the CRC occurring for any reason other than the expiration of a term, including a vacancy occurring during the term of the initial Chair or another initial member,

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<sup>1</sup> The Cannabis Regulatory Commission is in, but not of, the Department of the Treasury. *N.J.S.A.* 24:6I-24a.

shall be filled in accordance with the requirements for subsequent appointments set forth in *N.J.S.A. 24:6I-24b(3)* for the remainder of the unexpired term only. *Id.*

Agency Services requests an effective date of March 13, 2021 for the creation of the new titles.

## CONCLUSION

In matters involving the question of whether a particular title should be allocated to the career or unclassified service, the starting point is the *New Jersey Constitution*, Article VII, sec. 1, par. 2, providing that:

Appointments and promotions in the civil service of the State, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, *as far as practicable, by examination*, which, as far as practicable, shall be competitive; except that preference in appointments by reason of active service in any branch of the military or naval forces of the United States in time of war may be provided by law (emphasis added).

An interpretation of Civil Service law governing the unclassified service must be made in view of this constitutional mandate and a strict interpretation is generally given in matters concerning allocation to the unclassified service. *See in the Matter of Investigator, Penal Institution, et al., Essex County* (MSB, decided September 16, 1997).

In State service, *N.J.S.A. 11A:3-4* provides that the unclassified service shall be limited to those titles it specifically designates, including gubernatorial appointments and members of commissions authorized by law, and all other titles as provided by law or as the Civil Service Commission (Commission) may determine. *N.J.A.C. 4A:3-1.1(a)* provides that all job titles shall be allocated to the career service, except for those job titles allocated by the Commission to the unclassified service pursuant to *N.J.A.C. 4A:3-1.3*. *N.J.A.C. 4A:3-1.3(a)* provides that a title shall be allocated to the unclassified service when:

- 1) In State service, the title is so designated under *N.J.S.A. 11A:3-4*;
- 2) In local service, the title is so designated under *N.J.S.A. 11A:3-5*;
- 3) The title is designated unclassified by another specific statute;
- 4) A specific statute provides that incumbents in the title serve for a fixed term or at the pleasure of the appointing authority; or

- 5) The [Commission] determines that it is not practicable to determine merit and fitness for appointment in or promotion to that title by examination and that it is not appropriate to make permanent appointments to the title.

Our courts have recognized the State's strong public policy, as evinced by the State Constitution, favoring the inclusion of as many titles as possible in the career service. *See Walsh v. Department of Civil Service*, 32 *N.J. Super.* 39, 43-44 (App. Div. 1954); *Loboda v. Clark Township*, 40 *N.J.* 424, 434 (1983); *State v. Clark*, 15 *N.J.* 334, 341 (1954); *In the Matter of Hudson County Probation Department*, 178 *N.J. Super.* 362, 371 (App. Div. 1981). This principle of ascertaining "merit and fitness" for promotions and appointments through an open-competitive examination process is at the very heart of our merit system.

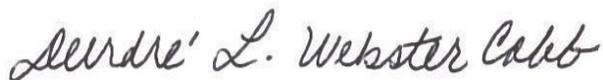
Against this background, in these matters, Civil Service law and rules amply support the establishment of the proposed new titles in the unclassified service. There is no question that the members of the CRC, including the Chair, are members of a commission authorized by law and are appointed by the Governor. Such titles are specifically designated by *N.J.S.A.* 11A:3-4. Further, the members, including the Chair, serve for fixed terms. *See N.J.A.C.* 4A:3-1.3(a)4 and *N.J.S.A.* 24:6I-24b(5). Thus, the Commission concludes that there is good cause to permit the creation of the unclassified titles of Chair, Cannabis Regulatory Commission and Member, Cannabis Regulatory Commission.

### ORDER

Therefore, it is ordered that these requests be granted and that the titles of Chair, Cannabis Regulatory Commission and Member, Cannabis Regulatory Commission are established in the unclassified service, effective March 13, 2021.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 28th DAY OF APRIL, 2021



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- c. Division of Agency Services (2021-1467 and 2021-1468)  
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